

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

RUBY RASA,

Appellant

v.

TREASURER OF THE STATE OF MISSOURI-CUSTODIAN OF THE SECOND INJURY
FUND.

Respondent

DOCKET NUMBER WD78562

DATE: NOVEMBER 17, 2015

Appeal From:

Labor and Industrial Relations

Appellate Judges:

Division One

Anthony Rex Gabbert, P.J., Victor C. Howard, and Cynthia Martin, JJ.

Attorneys:

David Conrad Byerley,

Counsel for Appellant

Attorneys:

Erin Courtney Smith

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

RUBY RASA,

Appellant,

v.

**TREASURER OF THE STATE OF
MISSOURI-CUSTODIAN OF THE
SECOND INJURY FUND,**

Respondent.

Labor and Industrial Relations Commission

Before Division One Judges: Anthony Rex Gabbert, P.J., Victor C. Howard, and Cynthia Martin, JJ.

Ruby Rasa appeals an award of the Labor and Industrial Relations Commission denying her claim for permanent total disability benefits from the Second Injury Fund. Rasa contends that the Commission erred in denying her benefits because she presented sufficient competent evidence to support an award in her favor. She argues that her own credible testimony, plus the uncontroverted testimony of her medical expert, Dr. Stuckmeyer, was sufficient to prove that she had a permanent total disability caused by a combination of severe pre-existing conditions and her primary injury. She further contends that in finding her medical expert's testimony regarding the severity of her pre-existing conditions to be not credible, the Commission impermissibly substituted its own lay opinion as to the cause of her overall permanent total disability for that of the medical expert.

AFFIRMED

Division One holds:

The Commission did not err in deciding to deny Rasa benefits from the Second Injury Fund because its denial of benefits was based upon sufficient competent evidence, as well as upon its discretion to make credibility determinations and afford more or less weight to testimony, including medical expert testimony.

The Commission did not err in finding Dr. Stuckmeyer's testimony was not credible because its credibility determination was "rooted in disbelief" and was based upon the Commission's finding that there were several methodological errors inherent to Stuckmeyer's

opinion. Because the Commission's determination as to Stuckmeyer's testimony was a valid credibility determination, we defer to the Commission's judgment as to his testimony.

Opinion by Anthony Rex Gabbert, Judge

Date:11/17/15

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